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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 10

Application Number: 09/997,934

Filing Date: 11/30/2001

Appellant(s): WILLEMS

MAILED

APR 20 2004

Robert D. Hornbaker GROUP 3600
For Appellant

EXAMINER'S ANSWER

(1) *Real Party in Interest*

This is in response to the appeal brief filed 1/15/04.

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. There are no related appeals and interferences.

(3) *Status of Claims*

Claims 13-29 are allowed.

The statement of the status of the claims contained in the brief is incorrect, since claims 13-29 have been determined allowable over the prior art of record.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims of record do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

2,715,243	Koll	8/1955
5,797,635	Willems	8/1998

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(10) Grounds of Rejection

The rejections of claims 13-29 have been withdrawn.

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koll, US Patent 2,715,243, in view of Willems, US Patent 5,797,635.

Regarding claims 1, 2, 4, 5, 7, 8, 10, 11, and 30, Koll provides a sprung surface handle with mounting plate 5, a handle 7 with cross arm/grip 8 and side arms (9,11), and stop means (25, 26) as claimed. A channel is formed in the mounting plate having bearing surfaces therein, and receives first and second turned-in ends as claimed. A spring 18 is provided for biasing the handle adjacent a wall like surfaces. *Koll teaches the claimed invention except providing teaching of the mounting plate mounting the handle to a base plate, and the base plate having raised handle-protecting parts as claimed.* Willems teaches the general concept of providing a base plate 40 with raised protecting parts (128, 130) for use with a handle like latching element 66 (see column 3, lines 19-27). It would have been obvious at the time the invention was made to have included in the device of Koll such a modification, as generally taught in Willems, for the purpose of

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providing added protective means to keep objects away from the handle, thereby preventing the likely-hood of harming a person, object, or the handle itself.

Regarding claims 3, 6, 9, and 12, although Koll discloses stops 25 and 26, the combination of Koll and Willems does not explicitly teach the stops being on the base plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to put the stops on the base plate as oppose to the mounting plate, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Such a modification would have solved no stated problem and would have provided no unexpected results.

Response to Arguments

A. With respect to claims 1, 2, 4, 5, 8, 10, 11, and 30:

Applicant argues that neither Koll nor Willems disclose a separate handle-mounting plate on a base plate. As the above rejection states, Koll provides handle mounting plate 5, and Willems is relied on for its teaching of a base plate 40.

(Note that in Willems, element 54 is similar to a handle mounting plate, since it attaches handle member 66 to the base plate.)

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Applicant argues that a channel having first and second bearing surfaces as claimed is not disclosed. Koll provides a channel with first and second bearing surfaces 14 and 15 (or 16 and 17), meeting the claimed limitations.

Applicant argues that no stops are provided in the handle mounting plate as claimed. Koll provides stops at 25 and 26, as claimed.

Applicant argues that because the handle element of Willem is not used for lifting and since Willem is within the art of latches, one skilled in the art would not look to combine Willem with Koll, since Koll deals with handles for lifting. It is noted that the examiner considers both Koll and Willem to be within the scope of the handle art. Although Willem does not explicitly teach a handle part in the claimed manner, it is the position of the examiner that Willem is relayed on for the teaching of a base plate 40 with raised projecting parts as a way of protecting the hand engaging part 66 (or handle) of the latch element. See column 3, lines 19-27. It is still believed in view of this teaching, one skilled in the art may elect to modify the device of Koll to include this type of protecting means for the handle of Koll, in a similar manner as that Willem provides for protecting a latch handle element.

Applicant argues that the examiner does not point out the page and line or figure where a teaching or suggestion to combine the two references can be found.

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As stated above, column 3, lines 19-27 provides a teaching to one skilled in the art of the protective characteristics of the base plate 40.

B. Regarding claims 3, 6, 9, and 12:

Applicant argues that the use of *In re Japikse*, is improper since it is directed to a case involving hydraulic presses. It is the position of the examiner that the general spirit of *In re Japikse* applies to this invention since there is no significant change in function of the device caused by changing the location of the stops, and the device would work equally as well. Such modification during the manufacturing of the device is considered obvious.

C. Regarding claims 13-28:

Claims 13-28 have been allowed.

For the above reasons, it is believed that the rejections should be sustained.

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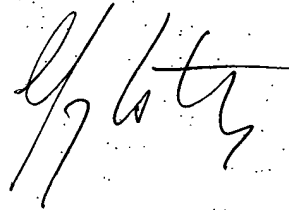
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Respectfully submitted,

Mark Williams
April 19, 2004

Conferees
Anthony Knight

G.E.

A handwritten signature in black ink, appearing to read 'G. Estremsky', written in a cursive style.

GARY ESTREMSKY
PRIMARY EXAMINER